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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15 3COM CORPORATION,

16 Case No. 3:03-cv-02177-VRW

17 Plaintiff,

18 vs.

19 ADMINISTRATIVE MOTION TO
20 CONSIDER WHETHER CASES SHOULD
21 BE RELATED

22 D-LINK SYSTEMS, INC.,

23 Defendants

24 ZIONS BANCORPORATION,

25 Case No. 3:10-cv-03481-CRB

26 Plaintiff,

27 vs.

28 U. S. ETHERNET INNOVATIONS LLC,

Defendants.

ADMINISTRATIVE MOTION TO CONSIDER
WHETHER CASES SHOULD BE RELATED
Case Nos. 3:03-cv-02177-VRW
and 3:10-cv-03481-CRB

1 Pursuant to Civil L.R. 3-12, Defendants¹ in the matter *U.S. Ethernet Innovations LLC v.*
 2 *Acer, Inc., et al.*, U.S. District Court, California Northern District, Case No. C 10-03724-EMC
 3 (“*Acer et al*”) respectfully request that the Court consider the following cases to be related to the
 4 *Acer et al* matter:

5 *3COM Corporation v. D-Link Systems, Inc.*,
 6 U. S. District Court, California Northern District, Case No. 3:03-cv-02177-VRW
 7 (“*Realtek*”)

8 *Zions Bancorporation vs. U.S. Ethernet Innovations LLC*,
 9 U. S. District Court, California Northern District, Case No. 3:10-cv-03481-EMC
 10 (“*Zions Bank*”)

11 At issue in the *Acer et al* matter are four U. S. patents, 5,307,459, 4,434,872, 5,732,094,
 12 and 5,299,313. These patents were all formerly owned by 3COM Corporation (“3COM”). The
 13 current owner of these patents, and plaintiff, is U.S. Ethernet Innovations (“USEI”). USEI’s
 14 parent, Parallel Technologies LLC purchased, *inter alia*, these patents from 3COM in May 2009
 15 and then assigned them to USEI on October 8, 2009. The next day, October 9, 2009, USEI filed
 16 suit against multiple computer maker defendants in the Eastern District of Texas.

17 Upon joint motion by the Defendants, the Magistrate Judge, Hon. John D. Love,
 18 transferred the *Acer et al* matter to this district in part because of the overlap between this matter
 19 and the previously tried issues in the *Realtek* matter. *Memorandum Opinion and Order*, Dkt. 310,
 20 at 2-3, 13 (Exh. 1). In the *Realtek* matter, Judge Walker dealt extensively with three of the four
 21 patents at issue in the *Acer et al* matter: He conducted a claim construction hearing, issued an
 22 order on claim construction, heard and decided several motions for summary judgment of non-
 23 infringement and invalidity, presided over a jury trial, and considered post-trial motions on
 24 infringement and invalidity. The ’313 patent was not part of the *Realtek* case, but shares three

25 ¹ Defendants include named defendants Acer, Inc., Acer America Corporation, Apple, Inc., ASUS
 26 Computer International, ASUSTeK Computer Inc., Dell Inc., Fujitsu Ltd., Fujitsu America,
 27 Inc., Gateway, Inc., Hewlett Packard Co., Sony Corporation, Sony Corporation of America,
 Sony Electronics Inc., Toshiba Corporation, Toshiba America, Inc., and Toshiba America
 Information Systems, Inc., in addition to the intervenors, Intel Corporation, NVIDIA
 Corporation, Marvell Semiconductor, Inc., and Atheros Communications, Inc.

1 common inventors to the other patents-in-suit. The '872 patent also states that it is related to the
2 '313 patent. The overlap between the patents tried to verdict in the *Realtek* case and the asserted
3 patents in this case, including the legal questions of infringement and invalidity and the substantial
4 time and resources already invested by Judge Walker, is a compelling reason to find these cases
5 related, and to assign the *Acer et al* matter to Judge Walker for further proceedings.

6 The *Zions Bank* matter is a declaratory judgment action on the same four patents at issue in
7 the *Acer et al* matter, and involving the same patentee, USEI. It is currently pending before Judge
8 Hon. Charles R. Breyer. *The Zions Bank* matter is thus related to the *3Com* and *Acer et al* matters.
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10 Dated: September 3, 2010

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